

Applicant : Kathleen M. MORIARTY
Serial No.: 09/844,849
Date Filed: April 30, 2001
Page 8

Dkt. 1478/64860

REMARKS

Claims 1, 3-10, 12-13, and 15-18 and 21-24 were pending in this application. Claims 1, 3-5, 8-10, and 13 have been amended. Accordingly, claims 1, 3-10, 12-13, 15-18, and 21-24 are presently being examined.

Applicant hereinabove has amended claims 1, 5, 10 and 13 to more clearly recite that the selected information includes "measurement information" or "performance metric information" about a "portion of the connection". Amended claims 1, 10 and 13 further recite that the portion is "between that of the sender and that of the border device". Support for these amendments can be found, inter alia, on page 13 in lines 9-14 of the present specification. Also, claims 1, 3-5, 8-10, and 13 have been amended to recite "information" instead of "selected information" to conform to the amendments to claims 1, 5, 10 and 13. Support for these amendments can be found, inter alia, from page 12 at line 19 to page 13 at line 16 of the present specification.

Claims 1, 5, 10, and 13 have been amended further to more clearly recite that: (1) the response is sent from the "border device to the sender"; and (2) the response includes address identification information "of the recipient" which is not that of the border device or the sender. Support for these amendments can be found, inter alia, on page 13 in lines 11-16 and on page 15 in lines 2-10 of the present specification.

Applicant thanks the Examiner for extending the courtesy of a telephone interview on March 22, 2006 in which this Amendment,

Applicant : Kathleen M. MORIARTY
Serial No.: 09/844,849
Date Filed: April 30, 2001
Page 9

Dkt. 1478/64860

as a Proposed Amendment, was discussed. In the interview, the Examiner stated that the pending claims in this Amendment overcome the cited art. Accordingly, this Amendment is being submitted for entry.

Sections 3-8 of the Office Action rejected claims 1, 5, 10, 12, and 21 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,742,044 to Aviani et al. ("Aviani patent"). According to the Office Action, each element recited in the above-referenced claims is found in, or inherent from, the Aviani patent.

Applicant respectfully submits that the present invention teaches and recites in amended independent claims 1, 5, 10 and 13 advantages not taught or suggested by the Aviani patent.

One object of the present invention is to provide useful information to legitimate senders about the connection with the recipient without also divulging information about the network of the recipient behind the border device. To this end, as recited in amended claims 1, 5, 10, and 13, the present invention provides "measurement information" or "performance metric information" about "a portion of the connection" (and for claims 1, 10 and 13 the portion is "between the sender and the border device") as if the information was about the complete connection between the sender and the recipient. This measurement information permits the sender to determine the best route to the recipient by way of the border device without also revealing information about the route from the border device to the recipient.

The Aviani patent fails to teach or suggest providing such useful information about the connection. Instead, the Aviani patent relates to load balancing and provides connection information from load balancing units (BOOM Clients) to the sender (Client). These load balancing units are not the border device (BOOM Server). Accordingly, measurement information about the supposed connection to the recipient (Host Server) received by the sender from the load balancing units relates to the connection between the sender and the load balancing units by way of the border device. Therefore, for example, unlike the route from the sender to the border device which is a consistent portion of the route to the recipient, the routes from the border device (BOOM Server) to the load balancing units are not part of the route to the recipient (Host Server). Accordingly, the sender can not determine the best route to the recipient through the border device, but only the best route to a particular load balancing unit, see column 11, lines 33 to 42 of the Aviani patent. Thus, for at least this reason the Aviani patent fails to teach or suggest the present invention as recited in amended claims 1, 5, 10, and 13.

Further, the relationship between the border device and the load balancing units of the Aviani patent can be revealed to a malicious sender when such a sender sends repeated queries to "map out" the load balancing network. Indeed, the Aviani patent aids such a sender, since multiple load balancing units will respond to a query by the sender, see column 9, lines 24-27 of the Aviani patent. Such a map will not be revealed by the present invention as recited in amended claims 1, 5, 10, and 13 at least because measurement information about only a portion of the connection between the sender and the recipient is revealed

Applicant : Kathleen M. MORIARTY
Serial No.: 09/844,849
Date Filed: April 30, 2001
Page 11

Dkt. 1478/64860

to the sender. Thus, for at least this reason the Aviani patent fails to teach or suggest the present invention as recited in amended claims 1, 5, 10, and 13.

Also, the present invention as recited in amended claims 1, 5, 10, and 13, sends the response "from the border device to the sender". In contrast, the Aviani patent teaches encapsulation of the information query, sending the query to the load balancing units, and then responding to the sender from the load balancing units, see column 7, line 54 to column 8, line 44 of the Aviani patent. Thus, for at least this reason the Aviani patent fails to teach or suggest the present invention as recited in amended claims 1, 5, 10, and 13.

Claims 12 and 21 depend on amended claim 10, and because a claim which depends on another claim is subject to all the limitations of that other claim, applicant respectfully submits that claims 12 and 21 are not taught or suggested by the Aviani patent for at least the reasons discussed above with respect to amended claims 1, 5, 10, and 13.

In view of the amendments to claims 1, 5, and 10, and the remarks above, applicant respectfully submits that claims 1, 5, 10, 12, and 21, as amended, are neither anticipated by nor unpatentable over the Aviani patent.

Sections 9-12 of the Office Action rejected claims 3, 4, 8 and 9 under 35 U.S.C. §103(a) as being unpatentable over the Aviani patent in view of U.S. Patent Publication No. 2002/0002686 to Vange et al. ("Vange publication"). According to the Office Action, each element of the cited claims can be

Applicant : Kathleen M. MORIARTY
Serial No.: 09/844,849
Date Filed: April 30, 2001
Page 12

Dkt. 1478/64860

found in the Aviani patent except for: (1) an "information query corresponding to a predetermined group of addresses stored at the sender"; or (2) deletion of such stored information after a period of time. However, the Office Action also states that these elements are found in the Vange publication.

Further, sections 13-16 of the Office Action rejected claims 6, 13, 15, and 22-24 under 35 U.S.C. §103(a) as being unpatentable over the Aviani patent in view of the prior art discussed in the present specification. According to the Office Action, while not disclosed by the Aviani patent, the prior art makes obvious: (1) discarding of information queries (claims 6 and 15); (2) the packet being a performance measurement packet (claim 13); and (3) the types of information queries recited (claims 22-24).

In addition, sections 17-18 of the Office Action rejected claim 7 under 35 U.S.C. §103(a) as being unpatentable over the Aviani patent in view of U.S. Patent No. 5,781,550 to Templin et al. ("Templin patent"). According to the Office Action, while not disclosed by the Aviani patent, the Templin patent makes obvious having the information query include predetermined identification information.

Also, sections 19-20 of the Office Action rejected claim 16 under 35 U.S.C. §103(a) as being unpatentable over the Aviani patent in view of the prior art discussed in the present specification and further in view of the Templin patent. According to the Office Action, while not disclosed by the Aviani patent, the Templin patent makes obvious having the information query include predetermined identification

Applicant : Kathleen M. MORIARTY
Serial No.: 09/844,849
Date Filed: April 30, 2001
Page 13

Dkt. 1478/64860

information.

Further, sections 21-23 of the Office Action rejected claims 17-18 under 35 U.S.C. §103(a) as being unpatentable over the Aviani patent in view of the prior art cited in the present specification and further in view of the Vange publication. According to the Office Action, each element of the cited claims can be found in the Aviani patent except for: (1) an "information query corresponding to a predetermined group of addresses stored at the sender"; or (2) deletion of such stored information after a period of time. However, the Office Action also states that these elements are found in the Vange publication.

Applicant respectfully submits that like the Aviani patent, the Vange publication, the prior art discussed in the present specification, and the Templin patent, taken alone or in combination, fail to teach or suggest gathering information about the connection between the sender and the recipient by having a border device respond to the sender with recipient address identification information that is different than that of the border device and different than that of the sender and measurement information about only a portion of the connection as recited in amended claims 1, 5, 10, and 13.

Accordingly, because claims 3, 4, 6-9, 15-18 and 22-24, as amended, depend on either amended claims 1, 5, 10, or 13 and because a claim which depends on another claim is subject to all the limitations of that other claim, applicant respectfully submits that claims 3, 4, 6-9, 15-18 and 22-24, as amended, are not unpatentable over the Aviani patent in view of the Vange

Applicant : Kathleen M. MORIARTY
Serial No.: 09/844,849
Date Filed: April 30, 2001
Page 14

Dkt. 1478/64860

publication, the prior art discussed in the present specification, and/or the Templin patent for at least the reasons discussed above with respect to the amended claims 1, 5, 10 and 13.

With respect to amended claim 13, applicant respectfully submits that although performance measurement packets are known, a "response" to such a packet measuring performance between a sender and a recipient in which the "performance metric information" of the response packet is that between the sender and the border device is not known absent the teaching of the present invention. Accordingly, for at least this reason, the present invention as recited in amended claim 13 is neither taught nor suggested by the Aviani patent or the prior art discussed in the present specification taken alone or in combination.

In view of the amendments to claim 13 and the remarks above, applicant respectfully submits that claims 3, 4, 6-9, 12, 13, 15-18 and 21-24, as amended, are neither anticipated by nor unpatentable over the Aviani patent, the Vange publication, the prior art discussed in the present specification, and/or the Templin patent.

In view of the amendments to claims 1, 3-5, 8-10, and 13, and the remarks above, applicant respectfully requests that the rejections in the Office Action be reconsidered and withdrawn. Accordingly, applicant respectfully submits that this application is in condition for allowance, and earnestly solicits a Notice Of Allowance.

Applicant : Kathleen M. MORIARTY
Serial No.: 09/844,849
Date Filed: April 30, 2001
Page 15


Dkt. 1478/64860

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicant's undersigned attorney invites the Examiner to telephone him at the number provided below.

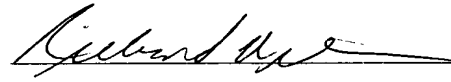
No fee is deemed necessary in connection with the filing of this Amendment. However, if any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,

I hereby certify that this paper is being deposited this date with the U.S. Postal Service as first class mail addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


Richard S. Milner
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22 April 2006
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